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The Future of Workers Compensation

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The Future of Workers' Compensation

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Abstract

This paper starts with an analysis of key trends impacting the workforce of the future, including demographic shifts, future industry and skills mix and analysis of the trends towards casual and flexible work. From this analysis, we consider the impact on workers compensation as currently defined in most states. We explore alternative approaches to coverage definitions and funding mechanisms, including drawing examples from other countries.

Next we explore the future of health and the impact on workers compensation. We explore the concepts of integrated health and outcomes based commissioning.

Key words: Workers' compensation, benefit design, changing workforce, health provider commissioning

1 Introduction and Background

Workers' compensation insurance is compulsory in Australia, consisting of payments required by law to be made to an employee who is injured or disabled in connection with work, or to the employer as reimbursements or to a provider for treatment and other services. Each state and territory has its own workers' compensation program. In addition, Commonwealth employees are covered through three schemes: Australian Government employees and the employees of licensed authorities (through Comcare), seafarers (through Seacare), and the Australian Defence Force personnel (through the Military Rehabilitation and Compensation scheme).

All Australian schemes have workers' compensation laws which are 'no fault'. Workers only have to prove that their injury arose in the course of employment in order to be eligible, without the need to prove negligence on the part of an employer. Common law is provided as supplementary cover in some jurisdictions, subject to certain limitations.

In decades past, it was easier to determine if an injury was work-related. The notion of 'going to work' generally involved arriving at a specific location and working on a specific task either as an individual or as a group of people. It was much easier to determine who was covered if an injury did occur, as the injury tended to occur within the confines of a physical location such as an office, factory or mine. In other words, the work-relatedness of injuries was easier to determine.

In the following sections, we illustrate the significant current and future changes in the landscape of work. Jobs of the future are likely to be more flexible, agile, networked and connected. Digital technology is changing employment markets and organisational structures. The peer-to-peer economy is expanding into many areas, and freelancing is a large (and growing) employment model. Labour is becoming more mobile and independent. For example, it is estimated that approximately 30% of Australian workers engage in some form of freelance work, either to supplement traditional forms of employment, or as their primary source of income. (1).

The first section of this paper explores the impact of the changing nature of work on workers compensation schemes. The second half of this paper explores the impact of changes in the Australian health care landscape on the provision of treatment services for injured workers.

2 Workforce of the future

The nature of work, employment relationships and workplaces in Australia are changing. In this section, we consider the key trends that will influence workers, employers and workplaces of the next 5, 10, 20 years and beyond. The key questions we will consider include:

- WHO – who will be the worker of tomorrow? What will they look like from a demographic perspective?

The Future of Workers' Compensation

- WHAT – what will that worker be doing? What will be the nature of work performed and in what industries?
- HOW – how will the worker be doing their work? What will be the mix of casual and permanent staff, contractors and self-employed workers, and what hours will they work?
- OTHER – what other influencers that may affect all of the above? E.g. technology

Figure 1 Key trends impacting the workforce of the future



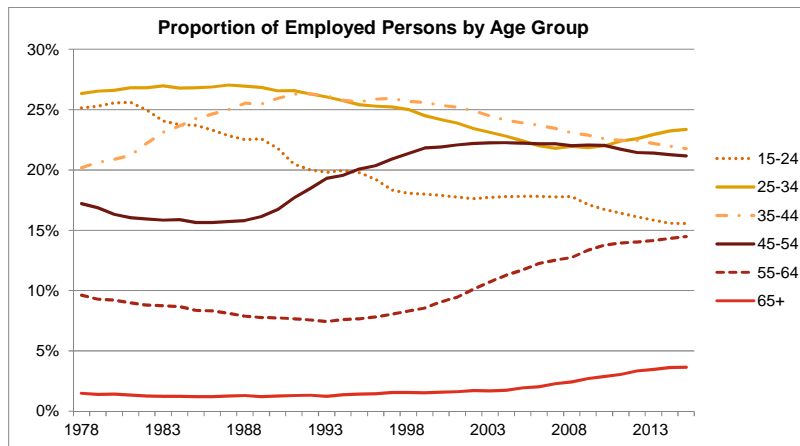
2.1 Ageing Workforce

The labour supply in Australia is ageing, consistent with the experience in many developed countries. This is driven by:

- Gains in life expectancy for all ages and lower fertility rates
- Improved health at older ages
- Increasing participation rates for women in the workforce now reaching the later age groups
- Changing generational mix: baby boomers leaving the younger age groups are not replaced in the same volumes at younger ages.

The graph below shows the change in the proportion of employed persons by age group.

Figure 2 Changing age mix of employed persons



Source: ABS catalogue 6291 Employed persons total

Over the last 37 years, the proportion of employed persons aged 55 and over has increased from around 11% to 18%. The baby boomer cohort moving through the age groups drove the increase in the 45-54 age group in the 90s, the increase in the 55-64 age group post 2000 and is currently emerging in the 65+ age group.

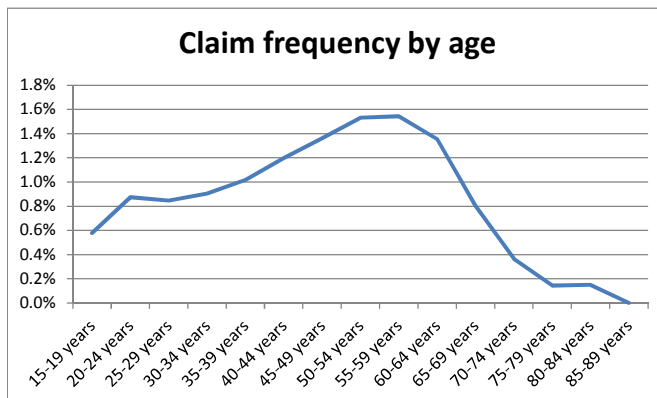
The ageing of the workforce has implications for workers' compensation benefits, including:

- Ongoing increases in retirement age, resulting in longer time periods for benefit payments and a higher proportion of older workers participating in the workforce. The interaction with the aged pension becomes more important in terms of scheme design. The old age dependency ratio, defined as the ratio of those aged 65 and over to those of working age 15-64, has increased from 17% to 22% over the last 15 years and is projected to continue to increase. The resulting pressures on funding for the aged pension and increased health care costs may result in increased utilisation of workers' compensation benefits for older workers. (2)
- Increasing treatment costs associated with older workers. Older people incur greater medical expenses as a result of the impact of ageing on overall health. It becomes difficult to separate the impacts of ageing and injury related to working, and inevitably workers' compensation schemes will end up paying for some treatment which is not strictly work-related.
- Increasing overall claim frequency. A study by John Walsh and Anne-Marie Feyer indicated that claim frequency per million hours worked increases with age from about 50 onwards. Average claim size remains flat from about age 40 onwards, implying that any increase in injury severity is offset by lower future economic loss benefits due to fewer years remaining until retirement. This results in an increasing cost per million hours worked by age, offset slightly by higher wages for older workers, resulting in a slightly increasing premium rate with age. (3)

As an example, the following graph shows non-hearing loss claim frequencies in the 2011 year, based on Victorian scheme claim numbers and census data for Victorian employed persons by age.

The Future of Workers' Compensation

Figure 3 Claim frequency by age



Source: WorkSafe Victoria data

The shape of this graph is consistent with that reported by Safe Work for serious injuries during 2012/13 across Australia (4). In summary, an ageing workforce is expected to result in higher claim frequencies for the Victorian workers' compensation scheme.

- Changes in claim types. As workers age they become more susceptible to gradual onset injuries and it becomes difficult to separate the impact of aging from the impact of work related injury. Safe Work report that Australian workers are more likely to claim for mental stress as they age, up to age 54. After that age, they are less likely to bring a claim for mental stress. (5)
- Poorer return to work and rehabilitation outcomes. Returning to work can be more complex for older workers, who may need to retrain to re-enter the workforce. Many employers prefer younger workers if given the choice, especially if an older worker has a pre-existing injury.

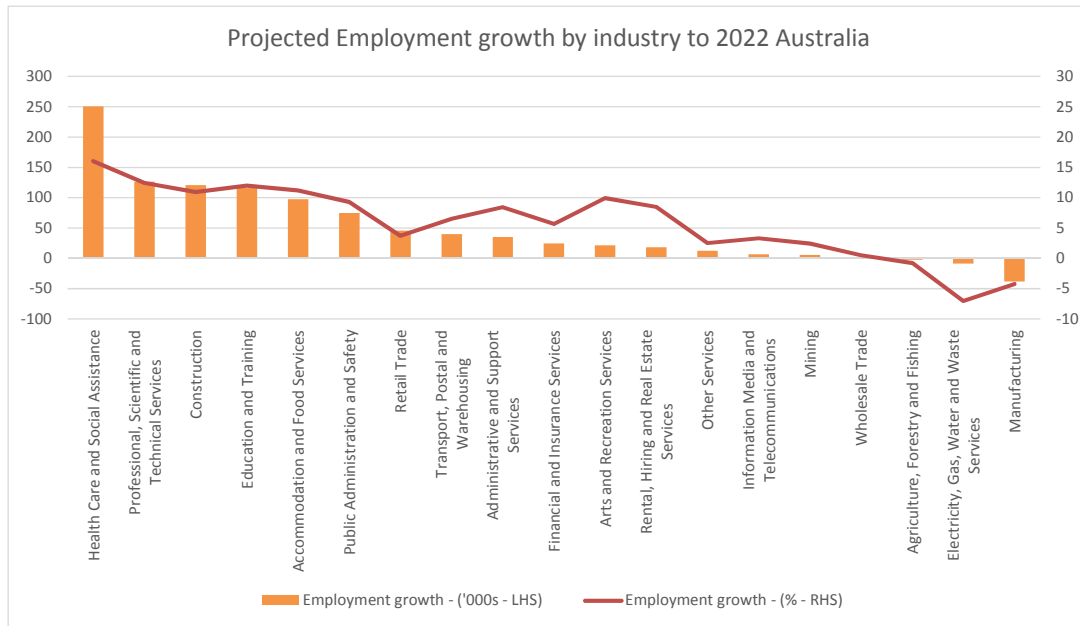
Those born in 2012 have a life expectancy of 92-94 years. (2) Young workers contemplating their careers are now envisaging a reality where they will be retiring in their 80s if they want a reasonable standard of living. Future working careers are not expected to follow linear trends from study to retirement. Rather, periods of working and studying, career breaks and pursuing family and other interests are anticipated to be more interspersed throughout people's lifetimes, leading to shorter and varied employment relationships and situations. Older workers will increasingly shift to part time work and remain in the workforce. Workers' compensation schemes in the future will need to evolve to meet the needs of older workers, providing benefits for longer periods past retirement for those who are still working, and linking more closely to the moving age pension entitlement age. (2)

2.2 Industries of the future

The Australian economy is changing over time, in response to increasing globalisation and other trends. As an example, the following chart shows the projected change in the workforce by industry in Australia over the five years to May 2022.

The Future of Workers' Compensation

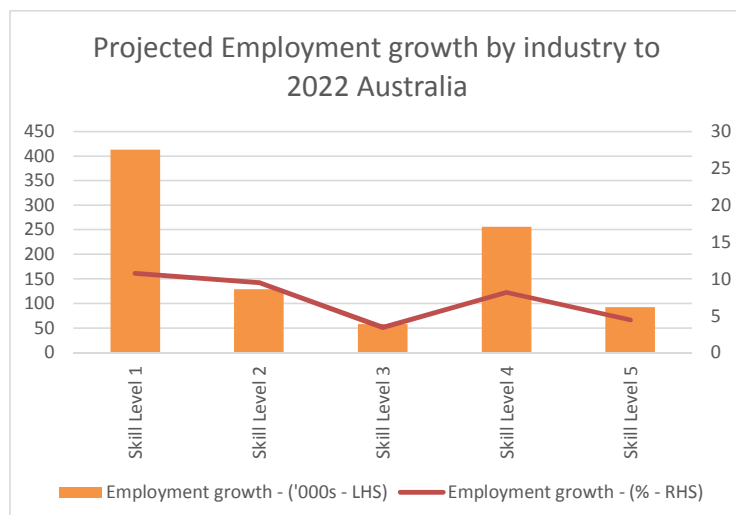
Figure 4 Changing mix of industries



Source: Department of Employment Regional projections May 2017-22 (7)

The trends forecast a continuing decline in manufacturing, essential services and agriculture, with highest growth in health care and social assistance, professional, scientific and technical services, and education and training. The trends imply higher growth rates in jobs which require higher skill levels. Skill levels for each occupation have been assessed at five levels, with 5 representing a Certificate 1 or secondary education, and level 1 representing a bachelor's degree or higher. The following graph shows the projected employment growth to 2020 by skill level:

Figure 5 Changing mix of skills



Source: Department of Employment projections May 2017-22 (7)

These broad trends (such as the decline in Manufacturing and the increase in service industries and higher skilled jobs) have been emerging across Australia for a number of decades and can be reasonably anticipated to continue into the next few decades. One result of these trends is that the types of injuries and claims will continue to change over time. Workers' compensation schemes of the future may need different

The Future of Workers' Compensation

management models for different industries, particularly those in decline where retraining may be required due to lack of employment options.

2.3 Part time, casual and self-employed workforce

There is an increasing casualisation of the labour force. As an example, casual employees increased from 21.5% to 24% of the workforce over the 20 years to 2013 (8). Most casual workers are found in fairly low skilled occupational groups. There are three industry sectors that together account for almost half of all casual workers, which are also the areas of high projected employment growth in Australia:

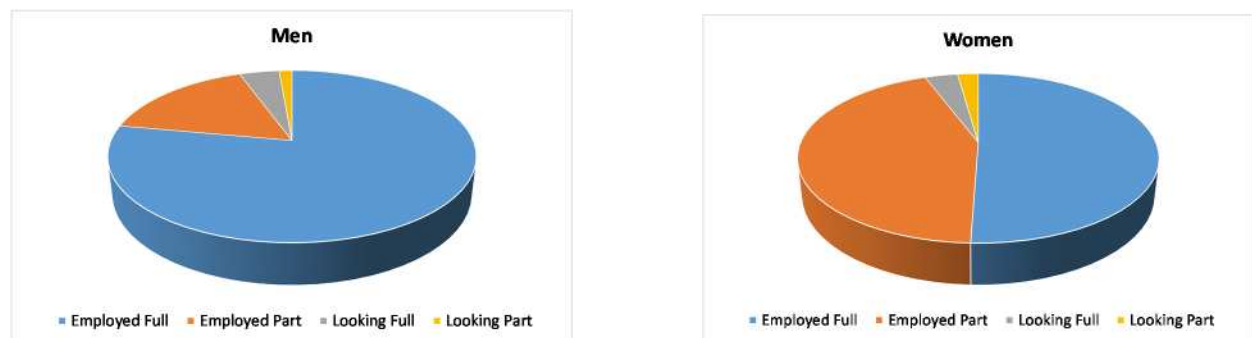
- Retail trade (19%)
- Accommodation and food services (19%)
- Health care and social assistance (10%)

The share of casual workers of other industry sectors is considerably smaller, often less than 5%. The occupations and industries which have higher incidence of casual employment also have higher unemployment rates.

Casual workers potentially lack the training and experience of full time workers, and hence can be more at risk of injury. This is often seen through the experience of labour hire organisations, which attract higher premium rates for their casual workers. There are flow-on impacts to retraining and rehabilitation options for such workers, and it can be difficult for workers to return to casual work hours at a new employer post injury.

The following charts summarise the proportion of Australian employees in full time versus part time employment, including those looking for work:

Figure 6 Part time work force



Source: ABS series 6291.0.55.001 Labour Force, Australia, Detailed, May 2017

The charts show a high rate of part time work for women in particular, with roughly equal numbers in the part time and full time work force.

2.4 Other outlooks

New and evolving technology is a big driver of the changes affecting workers, workplaces and the economy. The internet, broadband, mobile and social networks are causing disruption to existing business models (9). Oft-cited examples of this phenomenon include the advent of Airtasker, Airbnb and Uber, which have significantly disrupted hotel, taxi and other industries.

The Future of Workers' Compensation

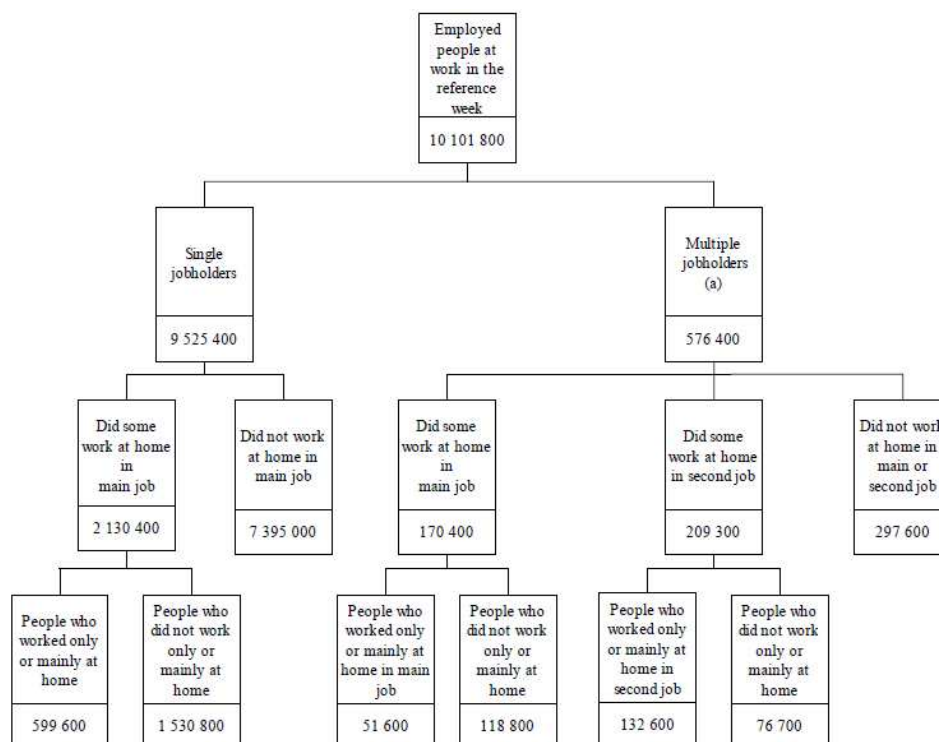
The results of such disruptions to traditional business models include:

- Automation of manual tasks. In some cases this includes removing jobs altogether, but improving the safety of the system as a whole. For example, driverless cars may be able to replace jobs which currently require driving skills. It has been suggested that cars will become autonomous in the next 20-30 years. The mining industry already uses autonomous vehicles operated by computer from a remote location replacing human operators on trucks, loaders, drills and trains.
- Advances in health services, with both improvements in services, improved health literacy in the population and the use of e-records.
- Changes in catastrophic claims/aged care. With the increasing development of assistive technologies, this industry is likely to become less labour-intensive and more high cost.
- Greater staff mobility. Greater numbers of staff work from home or other locations. This can increase the flexibility of the workforce to balance their needs, but can also increase stress levels as staff are increasingly connected to the work through mobile devices.

Workers are also expected to have a higher number of different jobs or careers over their lifetimes compared to older generations. This can also exacerbate the situation with respect to health and safety risks, as workers may need to learn safe systems of working in a number of different employment environments over their working lives.

The following flow chart illustrates the changing nature of work and work-places in the whole of Australia, from an ABS publication released in November 2008. We note that the changing trends over the last nine years are likely to have resulted in even greater staff mobility:

Figure 7 Place of work and number of jobs

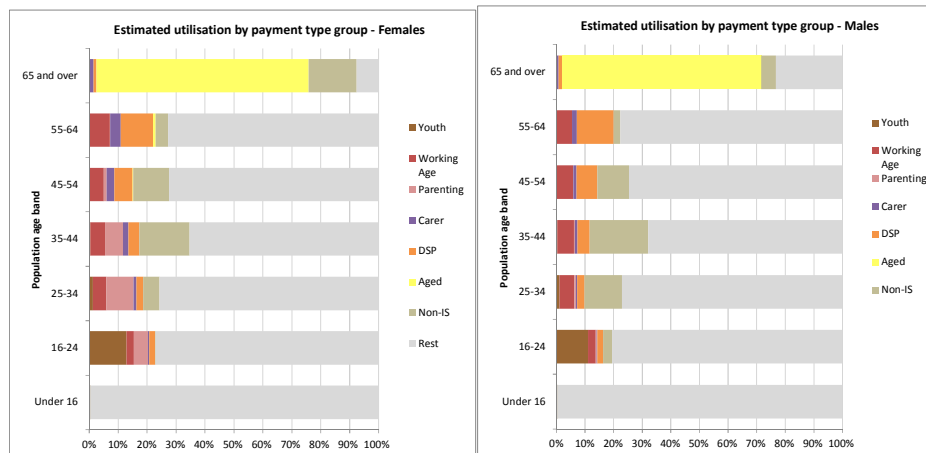


Source: ABS Catalogue 6275.0 November 2008

The Future of Workers' Compensation

With reducing numbers of low and medium skilled jobs available, older people who are injured may find it harder to secure an alternative job back at work or a new job. This has been observed particularly in cohorts such as males aged 55 and over who have been made redundant from traditional manufacturing roles, leading to an increase in utilisation in the disability support pension and Newstart allowance through Centrelink. The following chart shows that the current utilisation of the disability support pension is approximately 13% for males and 11% for females in the 55-64 age group.

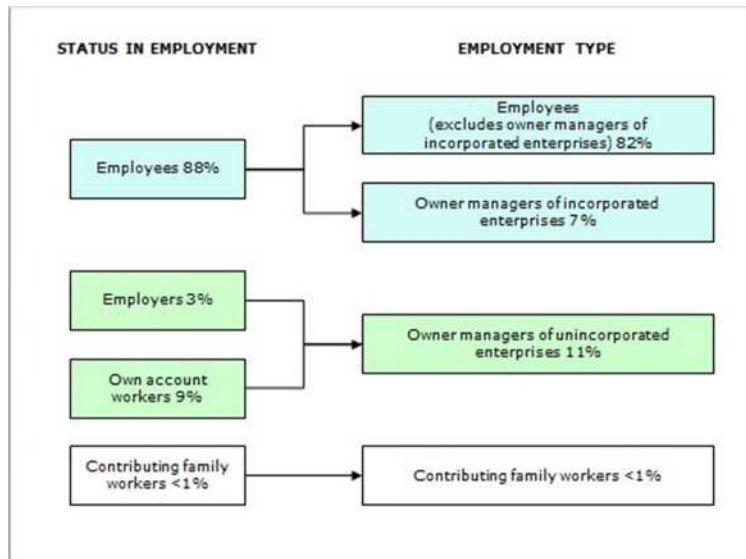
Figure 8 Utilisation of welfare benefits by age and sex, Australia



Source: Department of Social Services statistical overview 2013 (10)

The following chart shows the 2011 census summary of the nature of employment in Australia:

Figure 9 Nature of employment in Australia



Source: Australian Bureau of Statistics, 2011 Census

Owner managers of incorporated enterprises are people who work in their own business entity which is registered as a separate legal entity to its members or owners (also known as a limited liability company). Owner managers of unincorporated enterprises are people who operate their own business entity in which the owner and the business are

The Future of Workers' Compensation

legally inseparable, so that the owner is liable for any business debts that are incurred. This category includes those engaged independently in a trade or profession.

The chart shows that 82% of people are still “employed,” rather than self-employed. However, it is difficult to gather data regarding the numbers who have multiple employers. The remaining 18% are owner-employers or workers employed in family businesses. Over time, it is likely that these models of employment will change to reflect the changing nature of work. Workers' compensation schemes will need to flex in order to encompass these changes.

We summarise the changing outlook for the workforce of the future in the following table:

Figure 10 Changing outlook for the workforce of the future



Similar trends to those described are being observed across many developed nations, particularly in economies which have traditionally relied on strong manufacturing industries. One example is Denmark, which has tackled the issue of job losses in the manufacturing sector by increasing its investment in adult education. Denmark spends approximately 1.7% of GDP on retraining and job education, which is higher than any OECD nation, and compares to approximately 0.4% in Australia (11).

2.5 What is the impact?

The key facets of workers' compensation schemes which will need to evolve in light of the changing nature of work include:

- Consideration of the product design and coverage, including the definitions of worker and work. Associated with this, it is necessary to reconsider how workers compensation should be funded.
- Closer partnership with Commonwealth and State government authorities, to take a more integrated approach to retraining options in light of the changing mix of skills and jobs, and global competition

The Future of Workers' Compensation

- Continuing to find innovative and flexible ways to incentivise return to work, where there are multiple employer-employee relationships including higher levels of self-employment
- Greater consideration of the person's life situation, availability of other insurance and welfare supports, and the whole-of-government impact of the person being out of work.

These facets are expanded on in the following sections. Together, they illustrate the need for workers' compensation schemes to consider changes in order to best support the future workforce.

3 Coverage considerations

In the future, with increased mobility and casualisation of the workforce, it is likely that the traditional relationship between employer and employee will change significantly. The boundaries between the employer and employee are becoming blurred. Workers may work for more than one employer, and more workers may be self-employed. Workplaces may be varied, from working in a traditional workplace, to working from home, from a cafe or other flexible working arrangements.

With the spread of electronic communication, employers are no longer expected to always provide a workplace with a physical location at which employees work. Home offices, telecommuting work arrangements, and worldwide employment relationships mean that almost any location, including the employee's home, may serve as and accurately be called, a workplace. This presents some challenges for workers' compensation schemes in relation to the definition of the 'worker' and the definition of a 'work-related' injury.

The issue of coverage is three-fold:

- Who is covered?
- What is covered?
- In what circumstances?

There is also the consideration of how the cost of cover should be funded. We make further comments on this question in section 3.4.

3.1 Who is covered?

Australian workers' compensation schemes currently determine if an individual is covered based on the definition of a 'worker'. Each state/territory has a different definition of a worker, with particular exclusions and deemed workers being addressed in the legislation.

In Appendix A, we include a table which illustrates the range of different coverage definitions under different states in Australia and overseas (12). The table illustrates that there are a number of different definitions of a worker. For example, in WorkCover Queensland, a worker is a person who works under a contract and, in relation to the work, is an employee for the purpose of assessment for PAYG withholding. Only an individual can be a worker. Sole traders are engaged as individuals and may be a worker.

WorkSafe Northern Territory moved to a 'results based' test in 2012, which defined a worker as any person performing work for another, unless the person:

- is paid to achieve a stated outcome;
- needs to supply the equipment or tools required for the work; or
- would be liable for the cost of rectifying any defect.

The Future of Workers' Compensation

In reality, the test was difficult to apply, and there was a lot of confusion around contractors and sub-contractors. As a result, from 1 July 2015, the definition was changed in this scheme. The PAYG test from the Australian Taxation Office laws is now used to determine who is required to be covered. This change was expected to make it easier for employers and workers, as there is now one single definition to determine tax, superannuation and workers' compensation requirements.

In British Columbia, the workers' compensation system covers all paid workers in the province. These include labour contractors not registered with WorkSafe BC, shareholders and officers who work for the company and their children, if they work for the employer and are paid by the firm.

Deemed workers

Some people are 'deemed' to be workers for workers' compensation purposes. A deemed worker for workers' compensation purposes is a person who performs work in circumstances that fall outside of the general statutory definition of worker in a scheme, but who is deemed by legislation to be a worker in order to receive a workers' compensation benefit.

For example, in New South Wales, these classes of 'deemed workers' include, but are not limited to:

- outworkers;
- salespersons, canvassers, and collectors;
- contractors under labour hire service arrangements;
- rural workers; and
- boxers, wrestlers, referees and entertainers.

Optional products

Some examples of current optional products in the market which offer coverage to persons other than the 'worker' defined under the legislation are:

WorkCover Queensland ("WCQ") Workplace Personal Injury Insurance (WPII)

This product covers anyone deemed an eligible person under Section 23 of the Act. An eligible person, is an individual who, other than as a worker, receives remuneration or other benefit for performing work, or providing services as a contractor, a self-employed individual, a director of a company, a partner of a partnership, a trustee or a trust. These persons can insure themselves by taking out this type of policy regardless of age or health. Injuries incurred while travelling to or from work, while on a break from work, or while temporarily working interstate or overseas may also be covered.

The WPII premium is calculated by multiplying wages by a premium rate. There is a minimum premium (currently \$1,650) for a full financial year. The premium rate is based on the individual's occupation and classified depending on whether the majority of the work involves manual labour. The individual's wages are used to calculate both the premium and lost wages payable in the event of a claim; which is usually the same as the income declared to the Australian Taxation Office for the financial year.

WorkSafe British Columbia Personal Optional Protection (POP)

WorkSafe BC offers an optional workplace disability insurance product called the Personal Optional Protection ("POP") for individuals not automatically covered under the Workers' compensation Act. The POP covers lost salary and medical expense if the individual gets injured on the job or if the individual contracts a disease as a result of their work.

Under the POP, the individual can purchase a certain amount of monthly coverage (between \$1,800 and \$6,550 of monthly coverage in 2015). The cost of insurance is based on two items:

- Monthly coverage: the amount of insurance applied for
- Net rate: rate charged to the classification unit (based on industry) per \$100 of coverage purchased, plus any applicable experience rating adjustment.

ACC NZ CoverPlus

ACC CoverPlus is a personal injury cover for self-employed people. It automatically applies when the individual starts self-employment. It includes 24-hour no-fault cover for work-related and non-work related personal injuries, including access to the full range of medical treatment and rehabilitation benefits and up to 80% compensation for lost earnings.

The compulsory coverage is funded through a levy which is payable after the self-employed person submits their tax return. ACC NZ estimates the applicable earnings and levy amounts for self-employed persons from their tax return information, taking into account whether someone is new to self-employment, or is more established. Top up covers are available for those who want greater levels of income coverage.

3.2 What is covered?

Australian workers compensation schemes require compulsory coverage for work-related injuries and diseases. Some international schemes also cover non-work injuries, such as the New Zealand ACC scheme.

In all schemes, an injury is compensable if it arose "out of or in the course of employment". Some workers' compensation laws qualify this further by stating that the employment must have been a significant, material, substantial or the major contributing factor to the injury (this varies between jurisdictions). (12) For example, the Queensland workers' compensation legislation defines that employment must be the major significant contributing factor to the injury in order for psychological injuries to be compensable. By contrast, the Victorian legislation does not include requirements for work to have been a significant or major contributing factor to the injury.

The Future of Workers' Compensation

Arguably, states which have qualifiers regarding the level of contribution of work to the cause of the injury would have more disputes arising from the interpretation of these qualifiers. However, the highest levels of dispute arising in most schemes relate to psychological injuries, and the experience does not vary significantly between schemes in this regard.

In particular, it can be hard to distinguish psychological injuries which arise due to industrial disputes, reasonable management actions, and other causes. For example, Queensland insurers rejected 65% of psychological claims in 2014/15, of which 96.8% of rejections were due to the injury arising out of reasonable management actions. (5) (6) In summary, the qualifiers added to psychological injury definitions do not appear to be the main source of dispute for entitlement to benefits.

Injuries can be broken down into five groups:

1. Physical injuries
2. Occupational diseases
3. Mental injuries which arise following a physical injury
4. Mental injuries arising from trauma/Post Traumatic Stress Disorder ("PTSD")
5. Other mental injuries

Most countries cover the first four of these categories of injury. Australia is one of a small minority of countries that explicitly covers other mental injuries, listed as item 5 above.

We discuss these injury groups in more detail in following sections.

Physical injuries

Physical injuries covered by workers' compensation schemes include those which occur as a result of a specific event and those which emerge over a longer period of time, such as body strains. Aggravations of work-related injuries are also usually covered by workers' compensation.

Occupational diseases

Occupational diseases represent a wide range of conditions. Some occupational diseases have a short latency period (i.e. diseases that manifest a short period of time after exposure) while others can have a longer latency period (i.e. diseases that manifest a long period of time after exposure). The greatest difficulties in occupational diseases lie in those with long latency periods where the exposure to disease-causing agents may not show any effect until many years later and where its aetiology may also be complicated by other non-occupational exposures and factors.

The Future of Workers' Compensation

Most Australian jurisdictions have a "deemed diseases" list as part of their workers' compensation system, which comprises a list of diseases which are deemed to be work-related. A worker with the disease who has been exposed to the relevant exposure in the course of their work is assumed to have developed that disease. That is, the burden of proof to establish compensation is satisfied and shifts to another party who wishes to contest the work-relatedness of the condition.

Safe Work Australia has published an evidence-based list of diseases and associated work-related exposures in the Deemed Diseases in Australia report (13). The list provides information to help parties involved in the prevention or compensation of occupational disease.

Mental injuries

Australian schemes are one of the few that cover mental injuries which arise from causes other than through exposure to traumatic events or as a secondary injury in respect of a physical injury.

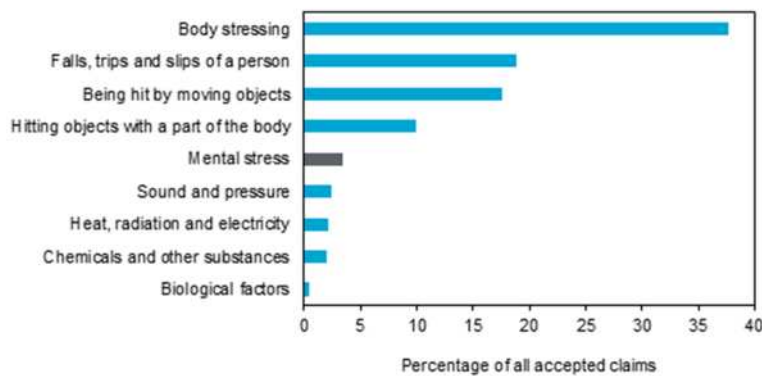
By comparison, in New Zealand, workers' compensation is only payable for psychological injuries that are an acute reaction to a sudden and unexpected traumatic event arising out of and in the course of the worker's employment (for example, a bank employee witnessing a shooting or a train driver involved in a fatal accident).

Similarly, Canadian provinces provide only limited access to compensation for psychological injuries. In British Columbia and Ontario, for example, a psychological injury must be caused by an acute reaction to a sudden and unexpected traumatic event. In Quebec, the cause of a psychological injury must be beyond the normal scope of the work and outside the normal and foreseeable relationship between the employer and employee. Claims involving interpersonal conflict or involving the employer's right to manage employees will not usually be accepted.

As the Australian economy moves away from physically demanding jobs and more towards a service based jobs market, the prevalence of severe physical injuries is decreasing. Conversely, trends in psychological injury have not been as favourable. This is thought to be due to the increased awareness and de-stigmatisation of mental illness in society, through the efforts of organisations such as Beyond Blue. It is also due to the changes in workplace health and safety relating to bullying in the workplace.

The Australian Bureau of Statistics Work Related Injuries Report estimates there are 31,500 people annually who experience a work related injury as a result of "stress or another mental condition" (14). Accepted claims arising from mental stress comprised 3.4% of all Australian workers' compensation claims over the period 2009-2010, as shown in the following graph:

Figure 11 Proportion of work related injuries by cause, Australia



Source: Safe Work Australia (5)

Over the period 2003–04 to 2010–11, there was a 7% decrease in the number of accepted *mental stress* claims. However, over this period claims in general decreased by 13% indicating a smaller improvement in mental stress claims than claims overall.

These *mental stress* claims are very expensive because of the often lengthy periods of absence from work typical of these claims. Median time lost for mental stress was about 10 times that of all claims in Australia in 2009–10 and the median cost was about 8 times as high according to Safe Work analysis. (5)

Mental stress-based claims are not the typical workplace-related injury. Unlike a broken arm or the loss of a limb, stress-related claims can be difficult to prove and accurately diagnose. Determination of whether or not a mental injury is compensable is primarily based on the establishment of a causal link between employment and the injury (or disease), subject to any specific legislative exclusions. In concept, mental injuries are no different to physical injuries in this regard. However, in practice, the nature of mental injuries makes it more difficult. This results in a higher number of disputes.

Safe Work's national analysis of workers' compensation stress claims also found (5):

- *Mental stress* claims are predominantly made by women.
- Injured workers are more likely to make a claim for *mental stress* as they get older but after they reach 54 years the likelihood that they made a claim decreases.
- More professionals made claims for *mental stress* than other any other occupation with over a third of their claims made for *work pressure*.
- There were more mental stress claims made for *work pressure* than any other sub-category.
- The hazards that result in mental stress claims vary with worker age. Younger workers are more likely to make claims as a result of *exposure to workplace or occupational violence*, whereas *work pressure* is the main cause of *mental stress* claims for older workers, peaking for those aged 45–49 years.
- General clerks, school teachers and police officers accounted for the majority of claims for *work pressure*.
- Women were around three times more likely than men to make a workers' compensation claim due to *work-related harassment &/or workplace bullying*. Approximately one-third of all claims in this *mental stress* sub-category were made

The Future of Workers' Compensation

by workers in the occupational categories of advanced clerical & service workers and general clerks.

- For the industries with the highest number/rate of *mental stress* claims, the majority of claims were for *work pressure*. This was particularly true in the education sector. Claims for *exposure to workplace or occupational violence* were notable in the retail trade industry, while the transport & storage and health & community services industries dominated claims for *exposure to a traumatic event*.

3.3 In what circumstances?

Journey/recess claims

The coverage of injuries occurring during travel to and from work varies across jurisdictions. Most jurisdictions do not provide general workers' compensation coverage for journeys. For example NSW WorkCover's 2012 reforms removed journey claims from the scheme. Injuries arising out of accidents in the course of employment are included in most schemes. For example, injuries sustained in road accidents by professional drivers are covered by workers' compensation. In some instances, recoveries are sought from motor liability or CTP insurers.

In the Hanks review of the Victorian scheme (12), it was recommended that home to work travel should generally continue not to be covered for workers' compensation because:

- employees should be personally responsible for decisions made about how safely they travel from home to work, and employers have little control over those decisions or over the factors that influence an employee's safety;
- home to work travel is not always direct (for example, an employee may stop to do shopping, go to a restaurant or bar etc.); and
- employees are already covered in Victoria by the Transport Accident Commission on a no-fault basis. Employees injured whilst travelling interstate for work have conditional coverage under relevant CTP schemes.

Where an employee is "on call", the Hanks review recommended that the employee should be covered by workers' compensation. However, there should be a requirement that the journey must only include travel between home, or the place where the employee receives the message to attend work, and the place of work itself.

Recess claims are those which occur on periods of authorised break from work, and are generally compensable as long as the injured worker did not subject themselves to additional risk whilst on their break. As workforces become even more mobile and flexible, the notion of an authorised "recess" break will become increasingly nebulous. It is possible that the current definition of recess claim will encompass many more injuries in future than it does today.

Telecommuting and working from home

In Australia, employees may be covered while working from home, as long as the injuries arise out of or in the course of employment, and the employment is a significant

The Future of Workers' Compensation

contributing factor to the injury. Employees may be covered for injuries sustained while working from home and on a recess break. Cases are usually considered based on the individual facts at the time.

Regardless of whether the employee works in the office or from their home, the employer is responsible for providing a safe workplace. If the employee is injured at their home in the course of their work, the employer is responsible for ensuring they are covered by their workers' compensation policy.

If employees are working from home, it can be harder to observe if they are getting too stressed or struggling with their workloads. Likewise, it can be more difficult to determine if there are incidences of bullying, (via email, for example). Employers will need to evolve their management practices to keep abreast of ongoing changes in the workplace and employment relationships. One example is the use of technology such as smart phone applications to regularly check-in on workers who are working remotely.

4 Summary of coverage considerations

Workers' compensation schemes in the future may need to focus on "working," or deriving income, to establish entitlement to benefits. Working could be defined as engaging in any pursuit for the purpose of generating income. In other words, if you are working, you are earning and paying tax.

Consistent with such an approach, one option for funding the cost of claims under this "working" definition would be to link with information collected by the ATO when individuals lodge their tax returns. Premiums could either be calculated using current employer wage declarations for traditional employer/employee relationships, or using additional levy calculations where persons are self-employed or earning work income in other non-traditional arrangements.

Such a model would essentially collect premiums from employers in addition to levies from other employees, with the funding mechanisms changing over time as the nature of work evolves. Examples of such systems include the Swedish social insurance, where both employers and employees pay premiums for the various coverage options available, and the ACC NZ which has a range of funding mechanisms linked to the nature of the exposures which cause the injuries covered, including levies on fuel, standard premiums and taxation funding.

In order to facilitate coverage under such a definition of "working", it would be necessary to expand the products provided by workers' compensation schemes. For example, the expanded set of products would need to include arrangements for self-employed persons and others who fall outside of traditional employer/employee relationships.

Examples of systems which have evolved to facilitate arrangements where workers have multiple employers include the portable long service leave arrangements for building, construction and contract cleaning workers. Similarly, different funding models will need to be designed to allow for future workforce flexibility. One possible approach for the construction sector could be to fund workers compensation premiums by site, rather than for each employee/employer relationship.

In the next section, we change focus to examine the impact of changes in the health care landscape in Australia on workers' compensation.

5 Trends in treatment and health care

In this section, we discuss the interactions with the health care sector and the changing landscape for healthcare in Australia, before considering how the workers' compensation scheme of the future will interact with the health care system.

In Australia, there is a mix of public and private models in regards to health care funding and service delivery. Australian residents are automatically covered for many hospital-related costs under Medicare. Many opt for private health insurance to have more control over the provision of treatment, coverage for services not covered under Medicare and to reduce waiting times for certain services.

As at 30 June 2015, 11.3 million Australians were covered by hospital treatment cover (47.4% of the population) and 13.3 million Australians had some form of general treatment cover (55.8% of the population). In 2014-15 the Australian Government spent \$5.8 billion on the Private Health Insurance Rebate (15), which subsidises the cost of cover for lower income Australians. Private health insurance is community rated in Australia, with taxation penalties for higher income earners who do not have private health cover, and higher premiums for those who purchase cover later in life.

In addition to the funding provided through Medicare for treatment and the PBS for pharmaceutical products, there are often gap amounts which are paid by individuals.

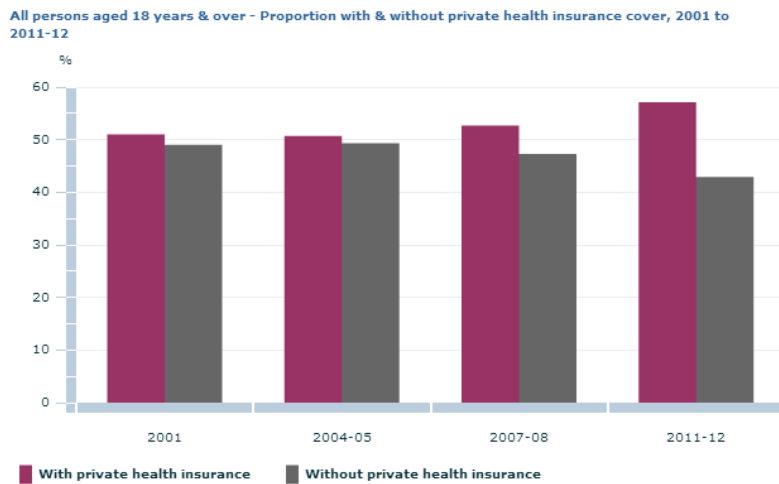
5.1 Interactions with health

Currently, the first interaction between the workers' compensation and health systems happens with the initial visit by the injured worker to the general practitioner following injury. In many cases, injured workers can be eligible to have a medical bill paid for by either Medicare or workers' compensation. For example, Medicare can be the first point of contact and source of medical benefits while the worker's claim is being determined to be accepted.

There are formal arrangements in respect of the recovery of costs between Medicare and workers' compensation schemes. For example, in the event of a settlement of the workers' compensation claim, if the compensation amount is more than \$5,000, including all costs, Medicare will seek recovery for any treatments which have been funded prior to settlement (16).

Private health insurance is additional health cover to that provided under Medicare, to reimburse all or part of the cost of hospital and/or ancillary services incurred by an individual. According to the ABS Australian Health Survey, in 2011-12 there were 9.7 million adult Australians with private health insurance (57.1% of all people 18 years and over). This was an increase from 2007-08 when 52.7% of adult Australians had private health insurance (17).

Figure 12 Proportion of people with private health insurance cover



Source: ABS Australian Health Survey (14)

Medicare and private health insurance offer similar coverage for the medical part of workers' compensation, should an individual sustain an injury. Therefore, injured workers have a choice of pathways for work related injuries, especially those at the minor end of severity. The larger private health insurers have strong leverage in terms of their purchasing power, allowing them to negotiate fee schedules with medical providers and hospitals. By comparison, workers' compensation schemes are largely price takers for many of the medical services they purchase, particularly the more complex services such as surgery.

5.2 Health system trends

In 2014-15, the total health expenditure totalled \$161.6 billion (17). This is funded by:

- \$108.2 billion (67%) by Australia's various levels of government;
- \$42.6 billion (27%) directly by the Australian population through out-of-pocket payments (\$28.6 billion or 18%) and private health insurance (\$14.0 billion or 9%);
- \$10.8 billion (7%) from other non-government sources. Out of this, injury compensation insurers funded \$2.8 billion of the expenditure in 2013-14 (\$1.6 billion or 1% by workers' compensation insurers and \$1.2 billion or 1% by motor vehicle third party insurers).

Governments around the world are facing the challenge of increased health care expenditure driven by ageing populations, the cost of new medical technologies and higher public expectations. In Australia, our ageing population is predicted to result in spending on health care across all levels of government growing from 6.5% to 10.8% of GDP over the next 50 years.

Workers' compensation schemes usually cover medical, hospital and allied health expenses to assist workers in their recovery from injury. In Australia, the costs covered are defined as either reasonable or appropriate to the treatment.

5.3 Future of Australian health system

Given the current trends in the costs of the health system, Governments are searching for ways to improve the efficiency and effectiveness of health services. The Primary Health Care Advisory Group released a paper detailing recommendations to improve the primary health care system, targeting better patient outcomes. (19)

The key principles for the review of primary care were to create a system that:

- Engages patients and carers as active partners in decisions about their health and wellbeing.
- Ensures service and funding models are based on best practice to maximise patients' health improvement, service safety and quality, and allow flexibility.
- Delivers efficient health care, eliminating waste and duplication.
- Ensures potentially avoidable hospitalisations are minimised.
- Facilitates integration and coordination of patient care across care settings and support health care professionals to work as multidisciplinary teams.
- Encourages all primary health care professionals to work to their full scope of practice.
- Supports the collection, reporting and use of primary health care outcome measures.

The results of the review was a number of recommendations, including the establishment of "health care homes," providing integrated, patient centric care, supported by data collection to provide an evidence base for effective treatment and innovative funding approaches. The following diagram illustrates the proposed model:

Figure 13 Future model of integrated health and social services



Source: Primary Health Care Advisory Group (19)

This model of co-ordinated care is also being developed in the United States, through the use of Accountable Care Organisations. Over the four years to January 2014, 425 Accountable Care Organisations were established, to deliver "value based care" under

The Future of Workers' Compensation

the US Affordable Care Act. This act remunerates ACO's based on the value of services and the impact on patient health (20). They are able to share in the savings in overall health care costs for their enrolled patients.

Central to this model is the ability of patients to take a more informed and involved role in managing their health care needs. This also requires an increase in health literacy in the general population compared to the current state. Comparative information about treatment options and providers in Australia is poor relative to other countries, particularly the US. Australians do not have ready access to information regarding the relative performance of different health practitioners, and rely heavily on the advice of their primary health care provider. By comparison, in the US, there are significant online resources available for patients to compare the outcomes achieved by different health providers.

Such online information is being developed gradually in Australia, such as the Whitecoat website.

Private health insurers are also playing a role in driving improved patient outcomes. For example, Medibank has led negotiations with individual hospitals whereby they refuse to reimburse the costs associated with some poor client outcomes. These include hospital readmissions due to having inappropriately discharged the patient or due to avoidable surgical errors. The larger private health insurers have strong leverage in terms of their purchasing power.

In summary, the future for health in Australia is likely to be more patient-centric, data driven and supported by integrated provider management. These goals are consistent with the goals of a modern workers' compensation scheme. Given the relative small contribution of workers' compensation in the overall funding of health costs in Australia, the logical strategic choice is to leverage the use of the proposed primary "health care homes," to deliver integrated and patient driven treatment plans for injured workers.

In many cases, the role of the workers' compensation scheme will be minimised, with injured workers self-managing their own treatment or receiving the support they need to navigate the system from their health care home treatment co-ordinators. This is similar to a number of models being proposed in different areas of health care, such as the NDIS. We examine these models in the following sections.

Case study: National Disability Insurance Scheme

The National Disability Insurance Agency ("NDIA") is an independent statutory agency. Their role is to implement the National Disability Insurance Scheme ("NDIS"), which will provide funded support packages to approximately 410,000 Australians with a significant and permanent disability and their families and carers. (21)

The NDIA statutory functions include:

- delivering the NDIS so as to, amongst other things, support the independence, and social and economic participation, of people with disability and enable people with disability to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports;
- managing, and advising and reporting on, the financial sustainability of the NDIS;

The Future of Workers' Compensation

- developing and enhancing the disability sector;
- building community awareness of disabilities and the social contributors to disabilities;
- collecting, analysing and exchanging data about disabilities and the supports for people with disability; and
- undertaking research relating to disabilities, the supports for people with disability and the social contributors to disabilities.

The NDIS is founded strongly on the principles of choice and control. There is good evidence to suggest that when people with disability are given greater choice and control over their services, they achieve better life outcomes. Greater choice and control can also lead to more efficient and effective delivery from disability service providers.

NDIS participants can choose how to manage the funding for the supports in their plan. The NDIS planner helps the participant to develop a plan. No matter which option is chosen for the payment of providers, the participant remains in control of which providers they select and when and how supports are delivered.

In particular, NDIS participants are able to make decisions around things like:

- type of supports and services used;
- who provides them;
- how they are designed and provided;
- how resources are able to be used; and
- how their funding is managed.

The Productivity commission summarised the impact of self-directed funding on participants, based on studies of Medicaid in the US, direct payments in the UK, and studies in Australia, the Netherlands and Canada.

Table 1 Summary of research on impact of self-directed funding

	<i>Person with a disability</i>	<i>Family members</i>
<i>Consumer and family benefits</i>		
Met individual needs	Improved	..
Satisfaction with care	Improved	Improved
Sense of control over life/ empowerment	Improved	..
Community interaction (circles of friends)	Improved	..
Greater use of mainstream services	Improved	..
Quality of care/ confidence in care	Improved	Improved
Costs of supports	Down or no change	
Personal dignity	Improved	..
More independent living	Improved	
Abuse and neglect	Down	..
Satisfaction with life	Improved	Improved
Culturally and linguistically appropriate care	Improved	..
Providing care during non-business hours	Improved	..
Continuity of care	Improved	..
Employment and productivity gains	Improved	
Use of preventative care	Improved	
Use of hospital, other health services & residential care	Down	
Economic wellbeing	Improved	Improved
Health status	Improved or no change	Improved
More aids & appliances and home/vehicle modifications	Improved	

Source: Disability care and support, Productivity Commission Volume 1, 2011 (21)

5.4 Current client interaction with the health system

Currently, injured workers interaction with the health system can be a source of frustration and dispute. Workers express frustration when they have to attend multiple exams, and also when their treatment is denied. They experience difficulty when their treating practitioner provides advice which is contrary to the opinions of independent examiners. These frustrations, coupled with the complexity of the system, are often the reasons that injured workers seek legal advice. One example of this was outlined in the Victorian Ombudsman's investigation into WorkSafe's disputes, which mentions the use of multiple independent medical exams by agents, through the work capacity review process.

Where clients have a sense of perceived injustice in respect of their injury, this can also lead to poor interactions with the health system. Perceived injustice has been found to be associated with poor progress in rehabilitation programmes for people with musculoskeletal pain following injury and impacts the quality of their interactions with their treating practitioners. (22)

Mental health plays an important role in recovery and can be compromised by the difficult relations injured workers experience with both health care providers and insurers. Examples include being treated by health care professionals as though they are exaggerating their claim, or that their injury is not legitimate. (23)

Health care practitioners can be frustrated by the administrative burden associated with workers' compensation claims, which can impact the therapeutic benefit of their treatment. In some cases, health practitioners refuse to treat injured workers due to the high work load involved. They also report frustration when their professional opinions are disregarded by claims managers. (23)

5.5 What are the impacts on workers' compensation schemes?

Workers' compensation schemes may evolve in the future in line with the broader developments in the health sector, with greater collaboration and co-ordination with primary health care homes, Medicare and private health insurers.

The model could start with the injured worker visiting their health practitioner, who would ideally be their GP in the health care home. For simple claims, ideally the GP would be able to determine that the worker has suffered a work injury, and funding for each visit would occur electronically and automatically.

For claims which are more complex in nature, the scheme could design a role similar to the South Australian return to work co-ordinator. This role could take responsibility for liaising with the GP, but would also be focussed on assisting the injured worker to navigate the claims process and to arrange the treatment required. The co-ordinator and GP could form their treatment plans leveraging best practice protocols for each injury, and could also have comparative online information to allow appropriate referrals to other health specialists.

Treating GPs could be given access to specialist occupational physicians and other health care professionals as required to help in the assessment of the worker's injury and developing a co-ordinated care plan.

The co-ordinator could use motivational interviewing and behavioural insights approaches to assist the worker to self-manage their return to work and health. The co-ordinator would then liaise with partners, including vocational rehabilitation providers and claims managers, to facilitate the return to work outcome.

The funding model for services in future may move towards an outcomes approach, rather than a pure fee for service model over time, as such approaches become more embedded in the primary health care model.

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Appendix A Scheme coverage comparisons

Table 2 Coverage in different Australasian and International schemes

State	Coverage of employees	Coverage of independent contractors	Coverage of labour workers	Coverage of hire
New South Wales	Worker means a person who has entered into or works under a contract of service or a training contract with an employer, with some exclusions.	Not unless contractor is a deemed worker.	Yes, labour firm held to be employer.	hire
Victoria	Worker means an individual — a) who: (i) performs work for an employer; or (ii) agrees with an employer to perform work b) who is deemed to be a worker under the Act	Not unless the contractor is a deemed worker.	Yes, labour firm held to be employer.	hire
Queensland	A worker is a person who works under a contract and, in relation to the work, is an employee for the purpose of assessment for PAYG withholding.	No, unless determine an employee using th ATO Decision Tool.	Yes, labour firm held to be employer.	hire
Western Australia	Any person who has entered into or works under a contract of service or apprenticeship with an employer, whether by way of manual labour, clerical work, or otherwise and whether the contract is expressed or implied, is oral or in writing.	No, unless employed under contract for service and remunerated in substance for personal manual labour or service.	Yes, labour firm held to be employer.	hire
South Australia	a) a person by whom work is done under a contract of service (whether or not as an employee) b) a person who is a worker by virtue of — Schedule 1 RTW Act 2014 c) a self-employed worker and includes a former worker and the legal personal representative of a deceased worker	Yes, if covered by definitions in s4: • 'worker' which includes a person by whom work is one under a contract of service (whether or not as an employee). • 'contract of service' which includes if person undertakes prescribed work or work of a prescribed class.	Yes, labour firm held to be employer.	hire

The Future of Workers' Compensation

State	Coverage of employees	Coverage of independent contractors	Coverage of labour hire workers
Tasmania	<ul style="list-style-type: none"> Any person who has entered into, or works under, a contract of service or training agreement with an employer, whether by way of manual labour, clerical work or otherwise, and whether the contract is expressed or implied, or is oral or in writing, and Any person or class taken to be a worker for the purposes of the Act 	Persons engaged under a contract for services are not covered unless the contract is for work exceeding \$100 that is not incidental to a trade or business regularly carried out by the contractor.	Labour hire workers are generally covered with the labour hire company taken to be the employer.
Northern Territory	A worker is a person who works under a contract and, in relation to the contract, is an employee for the purpose of assessment for PAYG withholding.	No, unless determined an employee using the ATO Decision Tool.	Yes, labour hire firm held to be employer.
Australian Territory	<p>Capit</p> <ul style="list-style-type: none"> Any person who has entered into, or works under, a contract of service with an employer, whether the contract is expressed or implied, or is oral or in writing, and Workers for labour only or substantially labour only Works for another person under contract unless under certain circumstances. 	No, if employed under contract for services (with provisions for coverage of regular contractors).	Yes, where the individual is not an executive officer of the corporation and under certain circumstances.
Commonwealth Comcare	An employee is a person employed by the Commonwealth or by a Commonwealth Authority, whether the person is so employed under a law of the Commonwealth of a Territory or under a contract of service or apprenticeship, or a person who is employed by a licensed corporation or ACT Government.	No, compensation only through employment of employees.	Possibly, according to definition of nature of contract.
Commonwealth Seacare	An employee is: <ul style="list-style-type: none"> a) a seafarer; b) a trainee; c) a person required to attend a Seafarers Engagement Centre for the purpose of registering availability for employment or engagement on a prescribed ship. 	No, compensation only through employment of employees.	Possibly, according to definition of nature of contract.

The Future of Workers' Compensation

State	Coverage of employees	Coverage of independent contractors	of	Coverage of labour workers	of hire
Commonwealth DVA	Member or former member of the Permanent Forces, Reserves or cadets of the Australian Defence Force who has rendered service on or after 1 July 2004.	Only if a "declared member".	a	Only if a "declared member".	
New Zealand	An earner is a natural person who engages in employment for the purposes of pecuniary gain, whether or not as an employee.	Yes.		Yes, labour hire firm held to be employer.	

Source: Schemes summarised from "SafeWork Australia: Comparison of Workers' Compensation Arrangements 2016" (20)

Country	Coverage of employees
Germany	All private wage earners and apprentices, including workers in the agriculture and horticultural sectors and marine industries, family helpers and students including children in kindergarten are covered. Certain self-employed persons are covered either under the federal statute or the statutes of the separate institutes (see below), but (with very few exceptions) all self-employed persons can voluntarily become insured members of the appropriate institute. The workers' compensation program also covers workers commuting to work.
Sweden	All employees, including persons undergoing training or education if the occupational injury or illness is associated with the training or education, are covered. In certain cases it also covers people employed abroad. No minimum qualifying period is required.
Canada - British Columbia	<p>(a) a person who has entered into or works under a contract of service or apprenticeship, written or oral, express or implied, whether by way of manual labour or otherwise;</p> <p>(b) a person who is a learner, although not under a contract of service or apprenticeship, who becomes subject to the hazards of an industry within the scope of Part 1 for the purpose of undergoing training or probationary work specified or stipulated by the employer as a preliminary to employment;</p> <p>(c) a member of a fire brigade or an ambulance driver or attendant working with or without remuneration, when serving</p> <p>(i) a municipality, a regional district, an urban area, an improvement district, a board of school trustees, a francophone education authority as defined in the School Act, a library board or a parks board, or</p> <p>(ii) a board or commission having the management or conduct of work or services on behalf of any of the bodies in subparagraph (i);</p> <p>(d) in respect of the industry of mining, a person while the person is actually engaged in taking or attending a course of training or instruction in mine rescue work under the direction or with the written approval of an employer in whose employment the person is employed as a worker in that industry, or while, with the knowledge and consent of an employer in that industry, either express or implied, he or she is actually engaged in rescuing or protecting or attempting to rescue or protect life or property in the case of an explosion or accident which endangers either life or property in a mine, and this irrespective of whether during the time of</p>

The Future of Workers' Compensation

Country	Coverage of employees
	<p>his or her being so engaged the person is entitled to receive wages from the employer, or from any employer, or is performing the work or service as a volunteer;</p> <p>(e) further, in respect of the industry of mining, a person while he or she is engaged as a member of the inspection committee, appointed or elected by the workers in the mine, to inspect the mine on behalf of the workers;</p> <p>(f) an independent operator admitted by the Board under section 2 (2); and</p> <p>(g) a person deemed by the Board to be a worker under section 3 (6).</p>
Finland	<p>All employees and, by and large, partners and shareholders working for a company are covered on an obligatory basis by workers' compensation insurance. On those who are not covered on an obligatory basis by workers' compensation insurance may take out a voluntary accident insurance.</p>
Canada Ontario	<p>- A worker is a person employed under a contract of service or apprenticeship and includes, among others:</p> <ul style="list-style-type: none"> • a learner (this includes a placement through the Ontario Works Program); • a student; • an auxiliary member of a police force; • a member of a municipal volunteer ambulance brigade; • certain members of a municipal volunteer fire brigade; and • deemed workers. <p>Under a contract of service, which can be written or verbal, a worker agrees to work for an employer in return for wages or salary. The employer controls most or all aspects of the work: what, when, where and how the work is done. Under a contract of service the employment relationship may include full or part-time work, piece-work, temporary agency work, or short term contracts.</p>
Netherlands	<p>Independent contractors are not automatically insured against unemployment, illness and occupational disability. They can, however arrange their own cover with a private insurer.</p>
Norway	<p>The principal rule is that everybody who works in Norway is covered by Norwegian national insurance.</p>

Source: Schemes summarised from their respective websites.

